MONTANA LEGISLATIVE HISTORY

Chapter 338 19 69

Bill H 40 S _____ Original bill & history ___C

H. Committee on Public Health		S. Committee on Public Health	
Hearing Date(s) 1-16	✓C	Hearing Date(s) 2-13	✓C
_____	___C	2-24	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

House

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

41st Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
JSE BILL . 14 s, Mehrens,	TO PROVIDE A MAXIMUM SPEED LIMIT	1-7-69	1-9-69	Re-referred to Committee to hold for Senate Bill dealing with same subject	1-14 2-10	DO PASS, AS AMENDED DO NOT PASS	KILLED IN HOUSE
USE BILL . 26 uve,	TO PERMIT ESTABLISHMENT OF REFUSE DISPOSAL DISTRICTS BY BOARDS OF COUNTY COMMISSIONERS	1-7-69	1-7-69		1-14	DO PASS	SIGNED BY GOVERNOR
USE BILL . 35 Mather,	TO PROVIDE FOR REGULATION OF THE POSSESSION & SALE OF DANGEROUS DRUGS IN STATE OF MONTANA	1-7-69	1-16-69	This bill was replaced by 453	2-5	DO NOT PASS	KILLED IN HOUSE
USE BILL . 40	TO PROVIDE A COMPREHENSIVE REVISION OF THE ACT REGULATING THE PRACTICE OF MEDICINE WITHIN THE STATE OF MONTANA	1-7-69	1-16-69		1-17	DO PASS, AS AMENDED	IN ENROLLING 3-6
USE BILL . 58 ,Pierce	TO ESTABLISH THE REVOCATION PERIOD FOR DRIVING WHILE UNDER INFLUENCE OF ANY DRUG	1-7-69	1-21-69 1-23-69		1-23	DO PASS, AS AMENDED	IN ENROLLING 3-6
USE BILL . 60	TO INCLUDE DRIVING WHILE UNDER INFLUENCE OF DRUG & ATTEMPTING TO ELUDE AN OFFICER AS REVOCABLE OFFENSES	1-7-69	1-21-69 1-23-69		1-23	DO NOT PASS	KILLED IN HOUSE
BILL	DENYING ISSUANCE OF DRIVER'S LICENSE TO PERSONS RECEIVING TAX, WELFARE OR OTHER BENEFITS FOR BEING BLIND OR NEARLY BLIND	1-7-69	1-21-69 1-30-69		1-30	DO NOT PASS	KILLED IN HOUSE

January 16, 1969

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS

The Public Health, Welfare and Safety Committee met in Room 428A at 8 a.m., Thursday, January 16, 1969. Chairman Asbjornson presided. All members were present except Mr. Kosena.

Chairman Asbjornson opened hearings on House Bill #40. The following proponent of the bill appeared before this committee:

Mr. Russ Hegland, Executive Secretary of the Montana Medical Association. Mr. Hegland expressed his approval of House Bill #40 and provided material for two amendments to the bill.

The witness was excused.

Chairman Asbjornson then opened hearings on House Bill #35. The following proponents of the bill appeared before this committee:

Mr. James Lucas, Speaker of the House and sponsor of the bill. He stated that this bill, the "dangerous drug act" was very much needed, not only in our state but nationally; that there are some archaic laws which do not identify dangerous drugs. He then introduced Judge Wesley Castles, Chairman of the Crime Commission.

Judge Castles informed the committee that House Bill #35 is a very important piece of legislation and a very difficult one to prepare and draft. He said this bill would remove the gap in our old laws and allow search and seizure and warrants for such. He then introduced Dr. Van Horne, Dean of the University of Montana's School of Pharmacy; Professor Ellison, Vice Chairman of the Criminal Law Commission; Rod Gudgel, Executive Secretary of the State Pharmaceutical Association; and his main aid Mrs. Diane Dennis.

Professor Larry Ellison told the committee that they had drafted what they think to be one of the most comprehensive drug bills; it makes the dangerous drug act all encompassing and conforms to the scientific definition of terms. He stated that the bill is broken down into four categories: The first section shows the four classifications of drugs that have a high potential for abuse. The second section deals with the criminal penalties and criminal sanctions invoked. The third section, because of the type of offense involved, gives authority only to district court judges. The final section assigns to the State Board of Pharmacy the power to add new drugs as they become known so that we can keep up with the rapidly changing chemistry field. He stated that the drug problem has increased and is greater than it has ever been.

Judge Castles told the committee that this bill is not changing in any way the prescription of drugs in Montana. It is proposing to repeal the title of the old narcotics act, with some minor changes which Dean Van Horne will take up.

Dean Robert Van Horne told the committee that they no longer use the term addict but, instead, use drug dependency. He explained the different drugs, what categories they had been placed in and why.

Judge Castles called the attention of the committee to the fact that there were two members of the Crow Reservation present.

James Lucas presented a Memorandum for amendments to the bill to the Chairman.

Dr. Cashmore explained to the committee that this act excludes physicians but the Medical Practice Act, HB #40, under Unprofessional Conduct, restricts physicians and how they use these drugs.

Chairman Asbjornson then opened the floor for questions.

Judge Castles said that after the Federal Act has designated a new drug as dangerous there is a hearing required before a drug can be included. Professor Ellison explained that Title 94 provides that when more than one offense has been committed, the penalties increase enormously.

A member of the Crow Reservation informed the committee that they were only present as they were concerned as to the use of Peyote in the bill. They said they have no objection to this bill.

Mr. Vernon Sloulin, of the Public Health Department, informed the committee that this act does repeal 2 sections of the Montana Food and Drug Act for which there is no objection but he wanted to see an amendment made on line 5, page 5, section 3. Judge Castles said there was nothing wrong with doing this as an added precaution.

Chairman Asbjornson said discussion on the bill would have to be delayed as there were some witnesses present on House Bill #137. The following proponents of HB #137 appeared before this committee:

Representative Dye, sponsor of the bill, told the committee that the responsible snowmobile dealers had spent the last 18 months researching other bills. Registration, which is a simplified form, is accomplished through the County Treasurer's Office. It excludes state and federal snow machines. He said Sections 7 and 8 provide where they can be lawfully used. Enforcement is in Sections 9, 10 and 11. The reason Fish & Game is in this act is they will probably handle all the law enforcement in the back country. Drivers will be fined for careless or reckless operation. The Chamber of Commerce is very definitely interested in this because the more we can open the country in the winter the better. He informed the committee that Pat Strong and Dean Nelson were present if there were any questions.

In response to a question, Mr. Dye said they had left the cost of registration fees to the Registrar of Motor Vehicles.

Mr. Nelson said the fee that comes up most often is about $5 on an annual basis. The reason for this is that there is more cost involved because it is the nature of these things that they are traded in often.

Mr. Dye stated that a State Chamber of Commerce gentleman was with them also. He said the bill does not exclude the barrow pit from use. If roads are unsurpassable for automobiles, snowmobiles are permitted. He feels it is time to control them if they are to be used to the best advantage in Montana.

Mr. Feda asked if foxes were classified as fur bearing animals in the bill. The gentleman from the Chamber of Commerce informed the Chairman that any animal not classified as a game animal is not classified here.

The witnesses were excused.

Chairman Asbjornson said the committee would wait until Tuesday morning to vote on passage of these three bills.

Dr. Cashmore asked the Chairman if he could briefly discuss HB #40. Chairman granted permission. He explained that occasionally there is a "bad apple" and it is deemed necessary to the health, welfare and safety of the people of Montana that the people shall be properly protected against unprofessional physicians and to license

competent physicians and thereby provide for the health needs of the State of Montana.

The meeting was adjourned.

J. O. Asbjornson, Chairman

Agnes M. Palmer, Secretary

☒ DO PASS, as amended
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

January 17 19 69

Bill Clerk

MR. SPEAKER:

We, your committee on Public Health, Welfare and Safety

having had under consideration House Bill No. 40

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A COMPREHENSIVE REVISION OF THE ACT REGULATING THE PRACTICE OF MEDICINE WITHIN THE STATE OF MONTANA AND BY STATING THE PURPOSES OF SAID ACT; BY DEFINING THE PRACTICE OF MEDICINE AND BY PROVIDING EXEMPTIONS FROM LICENSING REQUIREMENTS; BY CREATING THE STATE BOARD OF MEDICAL EXAMINERS AND DEFINING THE QUALIFICATIONS OF, AND APPOINTMENT OF MEMBERS TO, SAID BOARD AND BY SETTING THE TERM OF OFFICE OF THE MEMBERS OF SAID BOARD; BY PROVIDING FOR THE ORGANIZATION, THE POLICY, THE POWERS AND DUTIES, THE MEETINGS AND THE RECORDS OF THE BOARD AND FOR THE COMPENSATION OF THE MEMBERS OF SAID BOARD; BY DEFINING THE KINDS OF CERTIFICATES FOR LICENSURE NEWAL THEREOF; BY DEFINING THE PRACTICE AUTHORIZED BY THE CERTIFICATES FOR LICENSURE; BY PROVIDING FOR LICENSURE BY RECIPROCITY OR ENDORSEMENT; BY DEFINING THE QUALIFICATIONS FOR LICENSURE TO PRACTICE MEDICINE AND PROVIDING LIMITATIONS; BY DEFINING APPROVED MEDICAL SCHOOL, APPROVED INTERNSHIP AND APPROVED RESIDENCY; BY ESTABLISHING LICENSE FEES AND LIMITING AUTHORITY TO IMPOSE SAME; BY PROVIDING FOR LICENSURE TO PRACTICE MEDICINE AND FOR APPLICATIONS FOR LICENSE BY EXAMINATION, AND OTHERWISE, AND FOR THE ISSUANCE OR REFUSAL OF LICENSE; BY PROHIBITING PRACTICE PRIOR TO LICENSURE; BY PROVIDING FOR THE VALIDATION OF LICENSES TO PRACTICE MEDICINE AND SURGERY HERETOFORE ISSUED; BY DEFINING UNPROFESSIONAL CONDUCT AND BY PROVIDING FOR THE REVOCATION OR SUSPENSION OF LICENSES AND FOR THE DISCIPLINING OF, AND THE PROCEDURE FOR DISCIPLINING, LICENSE HOLDERS; BY PROHIBITING THE PRACTICE OF MEDICINE WITHOUT A LICENSE AND PROVIDING PENALTIES THEREFORE; BY PROVIDING FOR ANNUAL REGISTRATION, AND FEES THEREFOR, AND LIMITING AUTHORITY TO IMPOSE SUCH FEES; BY ESTABLISHING THE BOARD OF MEDICAL EXAMINERS FUND AND PROVIDING FOR DEPOSITS THEREIN AND WITHDRAWALS THEREFROM AND FOR REPORTS IN CONNECTION THEREWITH; BY PROVIDING FOR THE TRANSFER OF RECORDS, SUPPLIES AND MONEYS FROM THE STATE BOARD OF MEDICAL EXAMINERS HEREBY ABOLISHED TO THE NEW BOARD HEREBY CREATED; BY PROVIDING FOR INJUNCTIVE RELIEF IN ENFORCING SAID ACT AND THE MANNER OF CHARGING VIOLATIONS THEREUNDER; BY PROVIDING FOR THE ISSUANCE OF SUBPOENAS INCLUDING MANNER OF ISSUANCE, FEES AND SERVICE THEREOF, AND PENALTIES FOR FAILURE TO OBEY SAME; BY PROVIDING FOR NOTICE OF CHANGE OF ADDRESS OR NAME OF LICENSEE; BY PROVIDING FOR SERVICE OF NOTICE OR OTHER PROCESS ON LICENSEES; BY PROVIDING A SAVING CLAUSE; AND BY REPEALING SECTIONS 66-1001 THROUGH 66-1009, BOTH INCLUSIVE, OF THE REVISED CODES OF MONTANA 1947 RELATING TO PRACTITIONERS OF MEDICINE AND SURGERY AND REPEALING ALL ACTS AND PARTS OF ACTS IN CONFLICT HEREWITH AND PROVIDING THAT SAID ACT SHALL BE AND BECOME EFFECTIVE ON PASSAGE AND APPROVAL."

Respectfully report as follows: That House Bill No. 40 be amended on page 20, line 22 of the original bill, following the word "administration" by adding the words "or successors"

and further amend page 29, lines 30, 31 and 32 of the original bill after the word and punctuation "governor." by striking the following material "The board shall report by the first Monday of November of even numbered years, to the governor." and inserting in lieu thereof the following material "Before September 1 of each even numbered year, the board shall submit a written report to the governor providing to him the information required by law."

and further amend page 29, line 30 of the original bill by striking the word "direction" and inserting in lieu thereof the word "director"

And as so amended,

Committee Report form

Chairman

1969

SENATE

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

BILL NO.	ENTERED COMM.	OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CONCURRED IN	BE CONCURRED IN AS AMENDED	BE NOT CONCURRED IN	
SB-141	1/20/69	1/27/69			X				
SB-191	1/22/69	(to sub-comm. 1/27) 2/5/69		X					
SJR-23	1/23/69	1/31/69	X						
SB-262	1/23/69	2/7/69		X					
SB-263	1/23/69	2/7/69	X						
SB-285	1/23/69	2/10/69			X				
SB-294	1/23/69	1/31/69		X					
SB-295	1/23/69	1/31/69		X					
SB-305	1/23/69	2/10/69			X				
SB-320	1/23/69	--							
HB-40	1/31/69	2/24/69					X		
~~HB-208~~	~~1/28/69~~	(referred to State Administration)							

MINUTES

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
STATE SENATE

February 13, 1969

A meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Flynn in Room 442 on adjournment on February 12, 1969. Roll call was taken; Senators Bollinger and Reber were absent.

HOUSE BILL NO. 40: Dr. Cashmore, Representative from District 21, Helena, author of HB 40, explained the bill which provides for a comprehensive revision of the act regulating the practice of medicine within the state of Montana. This will also create the State Board of Medical Examiners.

Also appearing as a proponent on HB 40 was Russ Hegland, Executive Secretary of the Montana Medical Association. He stated that he has worked with the physicians around the state and they are heartily in favor of this bill.

HOUSE BILL NO. 215: Mr. Matt Himsl, Representative from District 30, Kalispell, first author of HB 215, appeared before the committee to explain the bill. This bill establishes the State Department of Health as the sole and official state agency to administer the state program for comprehensive health planning, and to authorize it to prepare a plan.

Also appearing as proponents for HB 215 were John Wilson and Dr. John Anderson from the State Department of Health.

The witnesses were excused.

On motion of Senator Dzivi and seccnded by Senator Cotton, action on House Bill 40 was deferred.

Action on House Bill 215 was deferred.

The meeting was adjourned.

Elmer Flynn
Senator Elmer Flynn, Chairman

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
STATE SENATE

February 24, 1969

A meeting of the Public Health, Welfare and Safety Committee was called to order by Vice Chairman Bollinger in Room 442 on adjournment on February 24, 1969. Roll call was taken; Senators Flynn, Cotton, Hibbard and Stephens were absent.

HOUSE BILL 178: Representative Campbell, author of HB 178, introduced Mr. Rod Gudgel, lobbyist for the Montana Pharmaceutical Association. Mr. Gudgel explained that the first purpose of the bill is to clarify the present law which defines a nursing home as a place caring for four or more persons. There has been at least one operator who has construed this law to mean three or less in each category not being considered a nursing home.

HOUSE BILL 533: Mr. Paul Reynolds, lobbyist for the Montana Optometric Association, appeared as a proponent for HB 533. Mr. Reynolds introduced Dr. Crabtree, an optometrist from Choteau. He stated that the optometric profession is one of the best professions. HB 533 would provide for an additional person to be added to the State Board of Health, this person being an optometrist.

Dr. Crabtree stated that eye examinations are now given for drivers license applicants, to pre-school children to detect the lazy eye disease, occupational vision, thousands of Montana school children are given visional examination each year, eye examinations of Indian children and adults, and because of this, he felt that an optometrist on the State Board of Health would be of great benefit to the health of the people of Montana.

Dr. J. T. Keller, an optometrist from Great Falls, spoke as a proponent on HB 533, stating that in the fiscal year ending June 30, 1968, 43,976 school children were screened by teachers and volunteer groups.

An opponent of the bill, Mrs. Virginia Mann, Chairman of the State Board of Health, Missoula, explained that she did not think that at this time the present construction of the board should be changed. To add one member would make it an eight-member board which would create an awkward situation. Being engaged in very controversial things, this could get a 4 to 3 vote, putting the chairman in an awkward position. She said it wasn't that she felt the optometrists had nothing to contribute to the Board, but,

besides the problem with an even number on the Board, she felt that a representative from many other groups would then request an additional member to be added to the Board. Under the present law, there are three lay citizens on the Board and 4 medical doctors. The Board meets in Helena every sixty days and is considered a policy making group.

Also appearing as an opponent was Rod Gudgel, lobbyist for the Pharmaceutical and Nursing Homes. He felt that if the optometrists wanted representation on the Board they should encourage their members to become politically active and become as knowledgeable about public health matters in general. Their organization did this and consequently a member of their organization was appointed to the Board as one of the lay members.

Bill Leary, Executive Director of the Montana Hospital Association, an opponent, explained that four years ago their organization tried to get two members added to the Board but they were not successful. Since then, they have talked with the governor to see if one of the people of their organization could be appointed to the Board as one of the lay people. If this HB 533 passes, he said that the hospital administrators would be very interested in coming in and asking for two members.

Russ Hegland, lobbyist for the Montana Medical Association and the Montana State Dental Association, an opponent of the bill, stated that both of the Associations which he represents were opposed to this legislation. He felt that pressure groups will come in and ask for members of their groups to be added to the Board until a very large number of people will be on the board. This would cost quite an additional amount of money to the people of the state.

Also appearing as opponents were: Mr. Tom Mahan, Montana Optometric Dispensing Association, Helena; Mr. and Mrs. Pennington, Great Falls; Phil Strope, attorney, Helena.

The witnesses were excused.

Senator Dzivi moved that HOUSE BILL 533 BE NOT CONCURRED IN. The motion was seconded by Senator Cochrane and carried. Senator Reber cast a dissenting vote.

Senator Dzivi read the proposed amendments to House Bill 178 and moved that said amendments be adopted. Senator Sparks seconded the motion and it carried.

Senator Dzivi moved that HOUSE BILL 178 AS AMENDED BE CONCURRED IN. The motion was seconded by Senator Bennett and carried.

Senator Bennett moved that HOUSE BILL 159 BE CONCURRED IN. Senator Dzivi seconded the motion and it carried.

Senator Dzivi read the proposed amendments to House Bill 40. Senator Reber moved to adopt the amendments. The motion was seconded by Senator Cochrane and carried.

Senator Reber moved that HOUSE BILL 40 AS AMENDED BE CONCURRED IN. The motion was seconded by Senator Sparks and carried.

Senator Dzivi read the proposed amendments to House Bill 453. Senator Reber moved to adopt the amendments. The motion was seconded by Senator Cochrane and carried.

Senator Reber moved that HOUSE BILL 453 AS AMENDED BE CONCURRED IN. Senator Bennett seconded the motion and it carried.

Senator Dzivi read the proposed amendments to House Bill 72. Senator Reber moved to adopt the amendments. The motion was seconded by Senator Bennett and carried.

Senator Dzivi moved that HOUSE BILL 72 AS AMENDED BE CONCURRED IN. Senator Reber seconded the motion and it carried.

Senator Bennett moved that HOUSE BILL 97 BE CONCURRED IN. Senator Sparks seconded the motion and it carried.

A motion by Senator Reber and second by Senator Sparks that House Bill 255 Be Not Concurred In was withdrawn.

The meeting was adjourned.

Senator Bollinger, Vice Chairman

☐ DO PASS
☐ DO NOT PASS
☒ BE CONCURRED IN AS AMENDED
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

February 24 19 69

MR .....

We, your committee on Public Health, Welfare and Safety

having had under consideration House Bill No. 40

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A COMPREHENSIVE REVISION OF THE ACT REGULATING THE PRACTICE OF MEDICINE WITHIN THE STATE OF MONTANA AND BY STATING THE PURPOSES OF SAID ACT; BY DEFINING THE PRACTICE OF MEDICINE AND BY PROVIDING EXEMPTIONS FROM LICENSING REQUIREMENTS; BY CREATING THE STATE BOARD OF MEDICAL EXAMINERS AND DEFINING THE QUALIFICATIONS OF, AND APPOINTMENT OF MEMBERS TO, SAID BOARD AND BY SETTING THE TERM OF OFFICE OF THE MEMBERS OF SAID BOARD; BY PROVIDING FOR THE ORGANIZATION, THE POLICY, THE POWERS AND DUTIES, THE MEETINGS AND THE RECORDS OF THE BOARD AND FOR THE COMPENSATION OF THE MEMBERS OF SAID BOARD; BY DEFINING THE KINDS OF CERTIFICATES FOR LICENSURE AND FOR THE ISSUANCE AND RENEWAL THEREOF; BY DEFINING THE PRACTICE AUTHORIZED BY THE CERTIFICATES FOR LICENSURE; BY PROVIDING FOR LICENSURE BY RECIPROCITY OR ENDORSEMENT; BY DEFINING THE QUALIFICATIONS FOR LICENSURE TO PRACTICE MEDICINE AND PROVIDING LIMITATIONS; BY DEFINING APPROVED MEDICAL SCHOOL, APPROVED INTERNSHIP AND APPROVED RESIDENCY; BY ESTABLISHING LICENSE FEES AND LIMITING AUTHORITY TO IMPOSE SAME; BY PROVIDING FOR LICENSURE TO PRACTICE MEDICINE AND FOR APPLICATIONS FOR LICENSE BY EXAMINATION, AND OTHERWISE, AND FOR THE ISSUANCE OR REFUSAL OF LICENSE; BY PROHIBITING PRACTICE PRIOR TO LICENSURE; BY PROVIDING FOR THE VALIDATION OF LICENSES TO PRACTICE MEDICINE AND SURGERY HERETOFORE ISSUED; BY DEFINING UNPROFESSIONAL CONDUCT AND xxxx

☐ DO PASS
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

..... 19.....

MR. PRESIDENT:

HOUSE BILL 40
Page 2 of 2

Amend Section 22, page 19, lines 12 and 13 of the original bill, being Section 22, page 17, line 11 of the printed bill, by omitting in its entirety the following sentence: "All documents submitted shall remain the property of the board."

Amend Section 29, subsection (4), page 29, line 19 of the original bill, being Section 29, subsection (4), page 26, line 77 of the printed bill after the word "shall" by deleting the word "not".

AND, AS AMENDED,
BE CONCURRED IN

SENATE COMMITTEE ON

PUBLIC HEALTH, WELFARE AND SAFETY

NAME	DATE 1/17	1/20	1/22	1/24	1/27	1/31	2/3	2/4	2/5	2/7	2/9	2/10	2/13	2/14	2/17	2/19	2/21	2/24	2/25	2/26
FLYNN, CHAIRMAN	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	D	A	✓	A	A	A
BOLLINGER, V. CHRM.	✓	✓	✓	✓	✓	✓	✓	✓	A	✓	✓	✓	A	✓	✓	✓	✓	✓	✓	✓
COTTON	✓	✓	✓	✓	✓	✓	✓	A	✓	✓	A	✓	✓	✓	✓	✓	✓	A	✓	✓
SHUGRUE	✓	A	A	✓	✓	✓	✓	A	✓	A	✓	✓	✓	✓	✓	✓	✓	✓	A	✓
DZIVI	✓	✓	✓	✓	✓	✓	✓	✓	✓	A	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
REBER	✓	✓	✓	✓	✓	✓	✓	✓	✓	A	A	A	A	✓	A	✓	A	✓	✓	A
BENNETT	✓	✓	✓	A	✓	✓	✓	✓	✓	✓	✓	✓	✓	A	✓	✓	✓	✓	✓	✓
DESCHAMPS	✓	A	✓	A	A	✓	(Replaced by Sparks)								—	—	—	—	—	—
HIBBARD	✓	✓	A	A	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	A	✓	✓
STEPHENS	✓	✓	✓	✓	✓	✓	✓	A	✓	A	✓	A	✓	✓	A	✓	A	A	A	A
COCHRANE	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
SPARKS	----	----	----	----	----	----	✓	✓	✓	✓	✓	A	✓	✓	✓	✓	✓	✓	✓	✓

reflect any change in the market value of the property which may result from the interest held by the public body. The value of the interest held by the public body shall be exempt from property taxation to the same extent as other property owned by the public body.

Saving clause.

Section 9. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

Approved: March 13, 1969.

CHAPTER NO. 338

An Act to Provide a Comprehensive Revision of the Act Regulating the Practice of Medicine Within the State of Montana and by Stating the Purposes of Said Act; by Defining the Practice of Medicine and by Providing Exemptions From Licensing Requirements; by Creating the State Board of Medical Examiners and Defining the Qualifications of, and Appointment of Members to, Said Board and by Setting the Term of Office of the Members of Said Board; by Providing for the Organization, the Policy, the Powers and Duties, the Meetings and the Records of the Board and for the Compensation of the Members of Said Board; by Defining the Kinds of Certificates for Licensure and for the Issuance and Renewal Thereof; by Defining the Practice Authorized by the Certificates for Licensure; by Providing for Licensure by Reciprocity or Endorsement; by Defining the Qualifications for Licensure to Practice Medicine and Providing Limitations, by Defining Approved Medical School, Approved Internship and Approved Residency;

by Establishing License Fees and Limiting Authority to Impose Same; by Providing for Licensure to Practice Medicine and for Applications for License by Examination, and Otherwise, and for the Issuance or Refusal of License; by Prohibiting Practice Prior to Licensure; by Providing for the Validation of Licenses to Practice Medicine and Surgery Heretofore Issued; by Defining Unprofessional Conduct and by Providing for the Revocation or Suspension of Licenses and for the Disciplining of, and the Procedure for Disciplining License Holders; by Prohibiting the Practice of Medicine Without a License and Providing Penalties Therefor; by Providing for Annual Registration, and Fees Therefor, and Limiting Authority to Impose Such Fees; by Establishing the Board of Medical Examiners' Fund and Providing for Deposits Therein and Withdrawals Therefrom and for Reports in Connection Therewith; by Providing for the Transfer of Records, Supplies and Moneys from the State Board of Medical Examiners Hereby Abolished to the New Board Hereby Created; by Providing for Injunctive Relief in Enforcing Said Act and the Manner of Charging Violations Thereunder; by Providing for the Issuance of Subpoenas Including Manner of Issuance, Fees and Service Thereof, and Penalties for Failure to Obey Same; by Providing for Notice of Change of Address or Name of Licensee; by Providing for Service of Notice or Other Process on Licensees; by Providing a Saving Clause; and by Repealing Sections 66-1001 Through 66-1009, Both Inclusive, of the R.C.M. 1947, Relating to Practitioners of Medicine and Surgery and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing That Said Act Shall Be and Become Effective on Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Short title.** This act shall be known as the "Medical Practice Act." Medical Practice Act.

Section 2. **Purpose of medical practice act.** It is hereby declared, as a matter of legislative policy in the state of Montana, that the practice of medicine within the state of Montana is a privilege granted by the legislative authority and is not a natural right of individuals and that it is deemed necessary, as a matter of Purpose.

such policy and in the interests of the health, happiness, safety and welfare of the people of Montana, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of medicine and to license competent physicians to practice medicine and thereby provide for the health needs of the people of Montana.

Practice of medicine defined—exemptions from licensing requirements.

Section 3. **Practice of medicine defined—exemptions from licensing requirements.** (1) For the purpose of this act the term "practice of medicine" shall mean:

(a) the practice of medicine by any person shall mean the diagnosis, treatment or correction of, or the attempt to, or the holding of oneself out as being able to diagnose, treat or correct any and all human conditions, ailments, diseases, injuries or infirmities, whether physical or mental, by any means, method, devices or instrumentalities.

If any person who does not possess a license to practice medicine within this state, as in this act provided, and who shall not be exempted from the licensing requirements hereunder, shall do any of the acts hereinabove mentioned as constituting the practice of medicine, he shall be deemed to be practicing medicine without complying with the provisions of this act and in violation thereof.

(2) Nothing herein shall be construed to prohibit or to require a license hereunder with respect to, any of the following acts:

(a) The gratuitous rendering of services in cases of emergency and catastrophe or either of them;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory, provided, that if any such physician does not limit such services to an occasional case or if he has any established or regularly used hospital connections in this state of if he maintains or is provided with, for his regular use, any office or other place for the rendering of such services, he must possess a license to practice medicine in this state;

(c) the practice of dentistry under the conditions and

limitations defined by the laws of this state as now or hereafter enacted;

(d) the practice of chiropody (podiatry) under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(f) the practice of osteopathy under the conditions and limitations defined by the laws of this state as now ore hereafter enacted;

(g) the practice of chiropractic under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(h) the practice of Christian Science, with or without compensation; and ritual circumcisions by Rabbis;

(i) the performance by commissioned medical officers of the armed forces of the United States of America or of the United States public health service or of the United States veterans administration of their lawful duties in this state as such officers;

(j) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as such;

(k) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, except as otherwise provided herein, subject to the conditions and limitations provided by this act;

(l) the rendering of services by a physical therapist, technician, or other para-medical specialist, under the personal and responsible direction and supervision of a person licensed under the laws of this state to practice medicine, but nothing in this exemption shall be deemed to extend the scope of any such para-medical specialist; and

(m) the practice by persons licensed under any law of this state as now or hereafter enacted to practice a limited field of the healing arts and not hereinbefore

specifically designated, under the conditions and limitations defined by such law;

Provided, however, that all licensees in this subsection (2) designated or referred to, who are licensed to practice a limited field of healing arts, shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses, and shall not use the title M.D., or any word or abbreviation to indicate, or to induce others to believe that he or she is engaged in the diagnosis or treatment of persons afflicted with disease, injury or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed.

State board of medical examiners—qualifications and appointment.

Section 4. **State board of medical examiners—qualifications and appointment.** There is hereby created the Montana state board of medical examiners, herein referred to as the board, which shall consist of seven (7) members, to be appointed by the governor, with the advice and consent of the senate, as herein provided, and to have the qualifications herein prescribed. Upon the taking effect of this act, the state board of medical examiners, as constituted under the laws of this state immediately prior thereto, is hereby abolished but the members thereof shall constitute the initial board under this act and the respective terms of such members shall extend through and expire on September 1 of the year during which their respective terms, as determined by their appointment under such prior law, would have expired. The terms of their successors shall be so arranged as to succeed the present incumbents as their terms expire. The board shall be comprised at all times of seven (7) members having the degree of doctor of medicine, all of whom shall be citizens of the United States and shall have been licensed and shall have practiced medicine in this state for at least five (5) years, not more than one (1) of whom shall be from the same county to insure reasonable representation on said board from the several parts of the state, and, all of whom shall have been residents of this state for at least five (5) years. All vacancies occurring shall be filled by appointment or reappointment by the governor with the advice and consent of the senate. Appointments made when the senate is not in session shall take effect immediately, and may be confirmed at the next ensuing session of the senate. Each member of the board shall,

before he enters upon the duties of his office, take an oath or affirmation to support the constitution of the United States and of the state of Montana and faithfully to perform the duties of the office upon which he is about to enter. Members of the board shall remain in office until their successors have been appointed. A member of the board may, upon notice and hearing, be removed by the governor for neglect of duty, incompetence or unprofessional or dishonorable conduct.

State board of medical examiners—term of medical examiners.

Section 5. **State board of medical examiners—term of medical examiners.** The members appointed to the board of medical examiners as in this act provided shall hold their respective offices for seven (7) years, or until their successors have been appointed, each said term to commence on September 1 of each year of appointment, provided, however, that the terms in office of those constituting the present board shall not be affected by the provisions of this act, except as to the date of expiration.

Organizations.

Section 6. **Organization.** The board of medical examiners shall, at the first meeting each year, elect from among their members a president and vice-president; and appoint an executive secretary, who may be a board member or another person. The board shall adopt a seal, upon which shall appear the words "The Board of Medical Examiners of Montana" and the further words "Official Seal" and all acts, rules, orders, regulations, certificates and licenses shall be authenticated by said seal.

Policy.

Section 7. **Policy.** The board shall maintain reasonable and continuing supervision and surveillance over all licensees under this act to insure that such licensees maintain standards of conduct and exercise the privileges granted hereunder in the greatest public interest and to carry out the purposes and provisions of this act.

Powers and duties of board.

Section 8. **Powers and duties of board.** In addition to all of the powers and duties conferred and imposed upon the board by this act, the board shall have and exercise the following powers and duties:

(1) To adopt and promulgate such rules and regulations as the board may deem necessary or proper to carry out the provisions and purposes of this act which shall be fair, impartial and nondiscriminatory; for the purpose of this act all rules and regulations adopted by the state

board of medical examiners as constituted under the prior laws of this state and in force and effect immediately prior to the effective date of this act shall remain in full force and effect until superseded by the rules and regulations adopted hereunder by the board;

(2) To hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board; and, through any member thereof, or the executive secretary, to subpoena witnesses, administer oaths, compel the testimony of witnesses and the production of books, papers and records relevant to any inquiries and to take and receive evidence by deposition, the commission being issued by the president of the board and the law and practice as to depositions in state district courts being applicable in all reasonable respects, and no such deposition shall be suppressed if fairly taken and if no injustice will result from its admission;

(3) To appoint, employ, and prescribe the duties and compensation of an executive secretary who shall be the executive officer of the board, legal counsel and such other personnel as the board shall deem necessary, subject to the constitution and the laws of this state;

(4) To aid the several county attorneys of this state in the enforcement of this act and in the prosecution of all persons, firms, associations or corporations charged with the violations of any of its provisions.

Meetings.

Section 9. **Meetings.** The board of medical examiners shall hold meetings for examinations, and for the transaction of such other business as may properly come before the board at least twice annually at times and places to be set by the board.

The president of the board may call such special meetings of the board as may be deemed advisable or necessary.

Four (4) members of said board shall constitute a quorum.

Records.

Section 10. **Records.** The board shall keep a record of the proceedings thereof, and also records of all applicants for a certificate and a register of all licenses. The register is prima facie evidence of all the matters therein kept.

Compensation of members.

Section 11. **Compensation of members.** Each member of the state board of medical examiners shall receive twenty-five dollars ($25) per diem, and mileage equal to that allowed by law to the members and employees of any other state agency, board or commission, while in the active and necessary discharge of his duties.

Kinds of certificates—issuance—reciprocity—endorsement—renewal.

Section 12. **Kinds of certificates—issuance—reciprocity certificates and certificates by endorsement—renewal.** The board may issue two (2) forms of certificates under its seal, the physician's certificate and the temporary certificate. The physician's certificate shall be signed by the executive secretary and the president, but the temporary certificate may be signed by any board member. The board shall decide which certificate to issue. These certificates shall be designated as:

(a) physician's certificate, which is subject to annual registration;

(b) temporary certificate, which is subject to specifications and limitations imposed by the board.

Statement as to practice permitted.

Section 13. **Statement as to practice permitted.** The certificates issued shall state the extent and character of the practice that is permitted, and shall be in the form prescribed by the board. Neither the privileges nor the obligations granted to or imposed upon licensees may be altered except by legislative enactment or by action of the board duly authorized hereunder.

Practice authorized by certificate—physician's certificate.

Section 14. **Practice authorized by certificates—physician's certificate.** The physician's certificate, which may be issued only to citizens of the United States, authorizes the holder to perform one or more of the acts embraced in section three (3) of this act in a manner reasonably consistent with his training, skill and experience.

Temporary certificate.

Section 15. **Practice authorized by temporary certificate.** The temporary certificate, which may be issued to any citizen or to an alien otherwise qualified for a physician's certificate, and which may be issued for a period not to exceed one (1) year subject to renewal for additional periods of one (1) year, but not to exceed five (5) such renewals, at the discretion of the board, authorizes the holder to perform one (1) or more of the acts

embraced in section three (3) of this act in a manner reasonably consistent with his training, skill and experience, subject, nevertheless, to all specifications, conditions and limitations imposed by the board.

Qualifications for licensure—physician's certificates, reciprocity and endorsement.

Section 16. **Qualifications for licensure — physician's certificates, reciprocity and endorsement.** (1) Subject to the other provisions and conditions of this act, a physician's certificate, or a certificate by reciprocity or a certificate by endorsement shall be granted by the board to an applicant therefor only upon the basis of:

(a) the passing by the applicant of an examination given and graded by the board; or

(b) a certification of record or other certificate of examination issued to or for the applicant by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee, or successors, certifying that the applicant has passed an examination given by such board; or

(c) a valid, unsuspended and unrevoked license or certificate issued to the applicant on the basis of an examination, by a duly constituted examining board under the laws of any other state or any territory of the United States or of the District of Columbia or of any foreign country whose licensing standards at the time such license or certificate was issued were, in the considered judgment of the board, essentially equivalent to those of the state of Montana for the granting of a license to practice medicine, provided:

(i) that under the scope of such license or certificate the applicant was authorized to practice medicine in such state, territory or country;

(ii) that no applicant who applies for a license on the basis of an examination and fails the examination shall thereafter be granted a license based on credentials from another state, territory or foreign country or on a certificate issued by the National Board of Medical Examiners, or successors, or by the Federation Licensing Examination Committee or successors;

(iii) that the board may, by specific regulation, prescribe and enforce reciprocity or endorsement requirements current with changes in standards in the practice of medicine; and

(iv) that the board may, in the case of an applicant for admission by reciprocity, or endorsement, require a written or oral examination of said applicant; and

(v) the board may require that graduates of foreign medical schools shall have passed the examination given by the Education Council for Foreign Medical Graduates, or successors.

Qualifications for licensure—temporary certificate.

Section 17. **Qualifications for licensure — temporary certificate.** (1) Subject to the other provisions and conditions of this act, a temporary certificate to practice medicine may be granted by the board to an applicant therefor, who may be either a citizen of the United States or an alien, upon the basis of;

(a) the passing by the applicant of an examination given and graded by the board; or

(b) a certification of record or other certificate of examination issued to or for the applicant by the National Board of Medical Examiners or successors, or by the Federation Licensing Examination Committee, or successors, certifying that the applicant has passed an examination given by the board; or

(c) a valid, unsuspended and unrevoked license of any certificate issued to the applicant, on the basis of an examination, by a duly constituted examining board under the laws of any other state or of any territory of the United States or of the District of Columbia or of any foreign country whose licensing standards at the time such license or certificate was issued were essentially equivalent, in the judgment of the board, to those of the state of Montana at the time for the granting of a license to practice medicine; and

(d) being a graduate of an approved medical school who has completed one (1) year of internship, or its equivalent, and is of good moral character and good conduct; and

(e) the board may require that graduates of foreign medical schools shall have passed the examination given by by the Education Council for Foreign Medical Graduates, or successors.

Qualifications for licensure—limitations.

Section 18. **Qualifications for licensure—limitations.** (1) No person shall be granted a physician's certificate to practice medicine in the state of Montana unless he:

(a) is at least twenty-one (21) years of age;

(b) is a citizen of the United States;

(c) is of good moral character, as determined by the board;

(d) is a graduate of an approved medical school as defined in section 19 of this act;

(e) has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is at least the equivalent of one (1) year internship as herein defined;

(f) has made a personal appearance before the board.

The board may grant such license subject to terms of probation or other conditions or limitations set by the board or may refuse to grant a license to any such person if he has committed any of the acts or offenses herein defined as unprofessional conduct, or is otherwise unqualified.

(2) No person shall be granted a temporary license to practice medicine in the state of Montana unless he:

(a) is at least twenty-one (21) years of age;

(b) is a citizen of the United States, or has filed a properly executed declaration of intention to become a citizen of the United States;

(c) is of good moral character, as determined by the board;

(d) is a graduate of an approved medical school as defined in section 19 of this act;

(e) has completed an approved internship of at least one (1) year or, in the opinion of the board, has had experience or training which is, at least, the equivalent of one (1) year internship as herein defined;

(f) has made a personal appearance before at least one (1) member of the board; and

(g) has been approved for temporary licensure by the executive secretary of the board; and

(h) a temporary license may be issued to a physician employed by a public institution who is practicting under the direction of a licensed physician. The board may grant such temporary license subject to terms of probation or other conditions or limitations set by the board or may refuse to grant a license to any such person if he has committed any of the acts or offenses herein defined as unprofessional conduct. The issuance of a temporary certificate imposes no future obligation or duty on the part of the board to grant full licensure or to renew or extend such temporary license.

The board may, in any case of an applicant for temporary certificate, require a written, oral or practical examination of said applicant.

Approved medical school.

Section 19. **Approved medical school.** An approved medical school is a school which conforms to the minimum education standards as established by the Council on Medical Education of the American Medical Association or successors for medical schools or is equivalent in the sound discretion of the board of medical examiners of the state of Montana, it being provided that the board shall have the authority upon investigation of the educational standards and facilities thereof to approve any other medical school, including foreign medical schools.

Approved internship.

Section 20. **Approved internship.** An approved internship is an internship training program of at least one (1) year in a hospital conforming to the minimum standards for intern training established by the Council on Medical Education of the American Medical Association or successors; provided, however, that the board shall have the authority, upon investigation, to approve any other internship.

Approved residency.

Section 21. **Approved residency.** An approved residency is a residency training program in a hospital conforming to the minimum standards for residency training established by the Council on Medical Education of the American Medical Association or successors; provided, however, that the board shall have the authority upon investigation to approve any other residency. The board

may require a resident physician to be licensed if he otherwise engages in the practice of medicine in the state of Montana.

License fee.

Section 22. **License fee.** (1) An applicant for a license to practice medicine to be issued on the basis of an examination by the board shall pay a fee of one hundred dollars ($100), and an applicant for such license to be issued on the basis of a certificate from the National Board of Medical Examiners or successors, or the Federation Licensing Examination Committee or successors, shall pay a fee of one hundred dollars ($100). An applicant for a license to practice medicine to be issued on the basis of a license or certificate from another duly constituted examining board, shall pay a fee of one hundred dollars ($100).

(2) An applicant for a temporary license shall pay an initial fee of twenty-five dollars ($25) and twenty-five dollars ($25) for each renewal thereof;

(3) No license tax shall be imposed upon physicians by a municipality or any other subdivision of the state.

Application for license.

Section 23. **Application for license.** (1) Every person desiring a license to practice medicine shall make application to the board, such application to be verified by oath and to be in such form and extent as shall be prescribed by the board. Such application shall be accompanied by the license fee and such documents, affidavits and certificates as are necessary to establish that the applicant possesses the qualifications prescribed by this act, apart from any required examination by the board. The burden of proof shall be upon the applicant, but the board may make such independent investigation as it may deem advisable to determine whether the applicant possesses such qualifications and whether the applicant has at any time committed any of the acts or offenses herein defined as unprofessional conduct, and at the board's request, the applicant shall provide necessary authorizations for the release of any and all records and information pertinent to the board's information.

(2) An applicant for a license on the basis of an examination by the board shall file his application at least thirty (30) days prior to the announced date of the examination. If such applicant is not at the time of

filing his application a graduate of, but is then in attendance at, an approved medical school, as that term is defined in this act, he shall submit to the board, in lieu of a diploma or other required evidence of graduation, a written statement from the dean or other authorized representative of such approved medical school that the applicant will receive his diploma at the end of the then current school term; but in any such case the applicant shall not be granted a certificate until he has filed with the board his diploma or other acceptable evidence of graduation from such approved medical school, and has complied with the requirements of subsection (1) of this section, and no license shall be issued to him until he has satisfied the board that he has completed at least one (1) year of an approved internship, or its equivalent, and has otherwise met the requirements for the issuance of a license under this act.

Examination.

Section 24. **Examination.** Examinations for a license to practice medicine shall be held not less than twice each year, at such time and place as shall be specified by the board. The examination shall be conducted in the English language, and shall be sufficiently comprehensive in medicine to adequately test the applicant's professional competence and ability. The examination shall be fair and impartial. Examination papers shall not disclose the name of any applicant but shall be identified by a number to be assigned by the executive secretary of the board. The board may use the examination or portion thereof prepared by the National Board of Medical Examiners, or the examination prepared by the Federation Licensing Examination Committee, or successors.

The board may, in its discretion, give an oral or a practical examination to test the applicant's qualifications for licensure, and grant appropriate credit therefor.

The board may use other Montana physicians to assist in preparing and conducting such examination.

No persons shall be granted a license to practice medicine if he fails to attain an average grade of at least seventy-five per cent (75%). If an applicant fails to meet such minimum grade requirements in his first examination, he may, after not less than six (6) months nor more than twelve (12) months, be re-examined without an additional fee. He may take one (1) additional examina-

tion, but not less than one (1) year after the date of the last preceding examination and he shall be required to pay a fee of fifty dollars ($50) for such additional examination. In case an applicant is prevented through no fault of his own from taking a scheduled examination he may, within two (2) years, be examined without payment of another fee or submission of a new application.

Issuance of license—prior practice prohibited.

Section 25. **Issuance of license—prior practice prohibited.** If the board determines that an applicant possesses the qualifications required by this act and is entitled thereto, the board shall issue a license to practice medicine which shall be signed by the president or vice-president and attested by the executive secretary and sealed with the seal of the board.

Prior to the issuance to him of such license, the applicant shall not engage in the practice of medicine in this state, and any person who shall practice medicine in this state without first having obtained such license shall be deemed to have violated the provisions of this act.

Validation of licenses heretofore issued.

Section 26. **Validation of licenses to practice medicine and surgery heretofore issued.** All licenses to practice medicine and surgery in this state heretofore issued by any prior board of medical examiners are hereby declared to be valid and sufficient in law and in full force and effect and shall be and are sufficient to qualify the holder thereof to practice medicine, as defined in this act, in the state of Montana.

Refusal of license.

Section 27. **Refusal of license.** If the board shall determine that an applicant for license to practice medicine does not possess the qualifications or character required by this act or that he has committed any of the acts defined in section twenty-eight (28) of this act as unprofessional conduct, it shall refrain from issuing a license. Thereupon, the board shall mail to applicant, at his last address of record with the board, written notification of its decision together with at least thirty (30) days written notice of a time and place to appear before the board in person, or by counsel, to present such statements, evidence and argument as he may desire to offer. In the event the applicant without cause fails to appear pursuant to such notice, or, after hearing held, the board

determines he is not entitled to a license, the board shall then refuse to grant such license.

"Unprofessional conduct."

Section 28. **Unprofessional conduct.** The words "unprofessional conduct" as used in this act are declared to mean:

(a) resorting to fraud, misrepresentation or deception in applying for or in securing a license or in taking the examination provided for in this act;

(b) performing abortion contrary to law;

(c) obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury or condition of any person can be cured;

(d) wilful disobedience of the lawfully adopted rules and regulations of the board of medical examiners;

(e) conviction of any offense involving moral turpitude, or the conviction of a felony involving moral turpitude, the judgment of any such conviction, unless pending upon appeal, shall be conclusive evidence of unprofessional conduct;

(f) administering, dispensing or prescribing any narcotic or hallucinatory drug, as defined by the federal food and drug administration or successors, otherwise than in the course of legitimate or reputable professional practice;

(g) conviction or violation of any federal or state law regulating the possession, distribution or use of any narcotic or hallucinatory drug as defined by the federal food and drug administration; the judgment or conviction, unless pending upon appeal, shall be conclusive evidence of such unprofessional conduct;

(h) habitual intemperance or excessive use of narcotic drugs or of alcohol or of any other drug or substance to the extent that such use impairs the user physically or mentally;

(i) conduct unbecoming a person licensed to practice medicine or detrimental to the best interests of the public;

(j) resorting to fraud, misrepresentation or deception in the examination or treatment of a person, or in billing

or reporting to a person, company, institution or organization;

(k) testifying in court on a contingency basis;

(l) conspiring to misrepresent, or wilfully misrepresenting, medical conditions improperly to increase or decrease a settlement or award, verdict or judgment;

(m) the aiding or abetting, in the practice of medicine, of any person not licensed to practice medicine as defined under this act or of any person whose license to practice medicine is suspended;

(n) gross malpractice, or negligent practice;

(o) practicing medicine as the partner, agent or employee of, or in joint venture with, any person who does not hold a license to practice medicine within this state; provided, however, that nothing herein shall prohibit the incorporation of an individual licensee or group of licensees as a professional service corporation as provided in chapter 21 of title 15 of the Revised Codes of Montana, 1947, and provided further that this limitation shall not have application to a single consultation with or a single treatment by a person or persons duly licensed to practice medicine and surgery in another state or territory of the United States or foreign country;

(p) violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this act, or the rules and regulations authorized herein;

(q) any other act, whether hereinabove specifically enumerated or not, which, in fact, constitutes unprofessional conduct.

Revocation or suspension of license—probation.

Section 29. **Revocation or suspension of license—probation.** (1) The board may, whenever it has been brought to its attention that there is reason to suspect that any person having a license or certificate to practice medicine in this state:

(a) is mentally or physically unable, safely, to engage in the practice of medicine, or has procured his license to practice medicine by fraud or misrepresentation or through mistake, or has been declared incompetent by a court of competent jurisdiction and thereafter has not

been lawfully declared competent or when any condition exists which impairs his intellect or judgment to such an extent as to incapacitate him for the safe performance of professional duties; or

(b) has been guilty of unprofessional conduct as defined in this act; or

(c) has practiced medicine while his license was suspended or revoked; or

(d) has, while under probation, violated the terms thereof;

make an investigation, including requiring such person to submit to a physical examination or a mental examination or both by a physician or physicians selected by the board whenever it shall appear in the best interests of the public that such evaluation be secured, to determine the probability of the existence of such conditions or the commission of any such offenses. The board may examine and scrutinize the hospital records and reports of any licensee as part of such examination and copies thereof shall be released to the board upon written request. If the board has reasonable cause to believe that such probability exists, the executive secretary or president shall mail to such person, at his last address of record with the board, a specification of the charges against him, together with a written citation of the time and place of hearing thereon, advising him that he may be present in person, and by counsel if he so desires, to offer evidence and be heard in his defense; the time fixed for such hearing shall not be less than thirty (30) days from the date of mailing the notice.

(2) Any person, including any member of the board, may file a sworn complaint with the board against any person having a license to practice medicine in this state, charging him with the commission of any of the offenses set forth in section twenty-eight (28), or subsection one (1) of this section, which complaint shall set forth a specification of the charges. When such complaint is filed, the executive secretary shall mail a copy thereof to the person so accused, at his last address of record with the board, together with a written citation of the time and place of a hearing thereon, advising him that he may be present in person, and by counsel if he so de-

sires, to offer evidence and be heard in his defense; the time fixed for such hearing shall be not less than thirty (30) days from the date of mailing the notice.

(3) At the time and place fixed for a hearing before the board as provided in subsections (1) and (2) of this section, or at any time and place to which the matter may be continued, the board shall receive evidence upon the subject under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense and shall after consideration adopt a resolution finding him guilty or not guilty of the matters charged. If the board finds that the conditions referred to in section twenty-eight (28), or subsection one (1) of this section do not exist with reference to such person or if he be found not guilty, the board shall dismiss the charges or complaint, but if the board does find that the conditions referred to in section twenty-eight (28) or in subsection one (1) of this section do exist and such person be found guilty, the board shall:

(a) revoke his license; or

(b) suspend his right to practice for a period not exceeding one (1) year; or

(c) suspend its judgment of revocation upon the terms and conditions to be determined by the board; or

(d) place him upon probation; or

(e) take such other action in relation to disciplining him as the board in its discretion may deem proper.

(4) The executive secretary of the board in all cases of revocation, suspension or probation shall enter in its records the facts of such action, and of any subsequent action of the board with respect thereto.

(5) Upon the expiration of the term of suspension, the licensee shall be reinstated by the board, provided the holder thereof shall furnish the board with evidence that he is then of good moral character and conduct and restored to good health and that he has not practiced medicine in this state during the term of suspension. If such evidence fails to establish to the satisfaction of the board that the holder is then of good moral character and con-

duct or if not restored to good health or if such evidence shows he has practiced medicine in this state during the term of suspension, the board shall revoke the license at a hearing, notice of which and the procedure of which shall be as hereinabove provided, which revocation shall then be final and absolute.

(6) In case any person holding a license to practice medicine under this act shall, by any final order or adjudication of any court of competent jurisdiction, be adjudged to be mentally incompetent or insane, or addicted to the use of narcotics, his license may be suspended forthwith by the board, and anything in this act to the contrary notwithstanding, such suspension shall continue until the licensee is found or adjudged by such court to be restored to reason or cured, or until he is duly discharged as restored to reason or cured and his professional competence has been proven to the satisfaction of the board.

Review of board action.

Section 30. **Reconsideration and review of actions of board.** The board may, on its own motion or upon application, at any time after refusal, suspension or the revocation of a license, or of probation or of other action as in this act provided, reconsider its prior action and grant, reinstate or restore such license or terminate the suspension thereof or terminate probation or reduce the severity of its prior disciplinary action; provided that the taking of any such further action, or the holding of a hearing with respect thereto, shall rest in the sole discretion of the board.

Appeals from board decision.

Section 31. **Appeals from decision of board.** (1) The action of the board in refusing to grant or in revoking or suspending a license or in administering any other disciplinary action hereunder may be reviewed by the district court of the county in which such revocation was made or other action taken. Such review shall be by an appeal taken from the action of said board. The appeal is taken by serving notice of appeal upon the executive secretary of the board of medical examiners and the attorney general of the state within thirty (30) days after notice from the board of medical examiners of its decision and by filing within the same time with the clerk of the proper district court a verified copy of the decision from which appeal is taken together with a

verified copy of any charge or charges preferred against the appellant and filed with the board of medical examiners.

(2) The appellant is required, at the time of filing such appeal, to furnish and file with the clerk of the court a good and sufficient bond, to be approved by the clerk, with two (2) good and sufficient sureties, in the sum of three hundred dollars ($300) guaranteeing the payment of all costs of the appeal should the case be decided against the appellant.

Violations—penalties.

Section 32. **Violations—penalties.** (1) Any person practicing medicine within the state without complying with the provisions of this act, or any association or corporation, (except a professional service corporation provided for by chapter 21 of title 15 of the Revised Codes of Montana, 1947) practicing medicine within this state, or any person, association or corporation violating any of the provisions of this act, or any officer or director of any such association or corporation, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000) or by imprisonment in the county jail for not less than ninety (90) days or more than one (1) year, or by both, and each daily failure to comply with, or each daily violation of, the provisions of this act, shall constitute a separate offense.

(2) Any person presenting or attempting to file as his own, the diploma, license or certificate, or credentials of another, or who shall give either false or forged evidence of any kind to the board, or any member thereof, in connection with an application for a license to practice medicine, or who shall practice medicine under a false or assumed name, or who shall falsely impersonate another licensee of a like or different name, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state penitentiary for a term of not less than one (1) year or more than ten (10) years at hard labor.

Annual registration fees—limiting authority to impose registration fees.

Section 33. **Annual registration fees—limiting authority to impose registration fees.** (1) In addition to the respective license fees required of applicants, every licensed physician actively practicing medicine within the state of Montana shall pay each and every year to the executive secretary of the board, an annual registration fee, not to exceed the sum of twenty-five dollars ($25), as may be prescribed by the board, and approved by the budget director. In the event any person licensed to practice medicine absents himself from the state for a period of one (1) or more years, or does not engage in active practice within the state of Montana, he may continue his license in good standing by the payment of five dollars ($5) each year, or at the discretion of the board, he may be reinstated upon the payment of a fee of five dollars ($5) for each year of absence or inactive practice.

(2) Such annual payments for registration shall be made prior to April 1 in each and every year, and a receipt acknowledging payment of the annual registration fee shall be issued by the executive secretary of the board. The board shall mail registration notices, at least sixty (60) days before such registration is due. In case of default in the payment of the annual registration fee by any person licensed to practice medicine who is actively practicing medicine in Montana, his underlying certificate to practice medicine may be revoked by the board upon thirty (30) days notice given to the delinquent of the time and place of considering such revocation. A registered or certified letter addressed to the last known address of the person failing to comply with the requirements of annual registration, as such address appears upon the records of the board, shall constitute sufficient notice of intention to revoke his underlying certificate, but no certificate shall be revoked for such nonpayment if the person authorized to practice medicine, and so notified, shall pay such annual registration fee before or at the time fixed for consideration of revocation together with a delinquency penalty of ten dollars ($10); provided, further, that said board may collect any such dues by an action at law.

(3) No registration or license fee shall be imposed upon any licensee under this act by a municipality or any other subdivision of the state.

Board of medical examiners fund—administration.

Section 34. **Board of medical examiners fund—deposits therein — withdrawals therefrom — reports required.** There is hereby established a fund to be known as the

"ear-marked revenue fund" for the use of the board of medical examiners. All moneys from whatever source received by said board shall be turned over by the executive secretary of the board, to the state treasurer and shall be by the state treasurer deposited in the "ear-marked revenue fund" for the use of the board of medical examiners and as appropriated by the legislature. All withdrawals therefrom shall be by warrant issued by the state treasurer on the basis of a properly executed claim. In the case of a deficiency the reserves in the "ear-marked revenue fund" may be used upon approval by the budget director and the governor. Before September 1 of each even numbered year, the board shall submit a written report to the governor providing him the information required by law.

Transfer of records—supplies and moneys.

Section 35. **Transfer of records—supplies and moneys.** All records, supplies and equipment of the state board of medical examiners, hereby abolished shall be transferred to the board created by this act, and all moneys remaining to the credit of the "ear-marked revenue fund" for the use of the board of medical examiners shall, after the payment of all claims, be transferred and credited to the board created by this act.

Injunctive relief—manner of charging violation of act.

Section 36. **Injunctive relief—manner of charging violation of act.** The state board of medical examiners, notwithstanding any other provision contained in this act, may maintain an action to enjoin any person from engaging in the practice of medicine, until a license to practice medicine be procured. Any person who has been so enjoined who shall violate such injunction shall be punished for contempt of court; provided, that such injunction shall not relieve such person so practicing medicine without a license from a criminal prosecution therefor as is provided by law, but such remedy by injunction shall be in addition to any remedy provided for the criminal prosecution of such offender. In charging any person in a complaint for injunction or in an affidavit, information or indictment with a violation of this law by practicing medicine, without a license, it shall be sufficient to charge that he did, upon a certain day and in a certain county engage in the practice of medicine, he not having any license to do so, without averring any further or more particular facts concerning the same.

Subpoena—issuance—fees—service.

Section 37. **Subpoena—how to issue—fees—service.** Whenever the board in the transaction of any of its business or in the conduct of any hearing, or whenever any person interested in such business or hearing desires to secure the presence for testimony of any person before the board, the board, or such person, may procure a subpoena from the clerk of district court of the county in which the business is to be transacted or the hearing held. The clerk of the district court shall issue the subpoena in the name of the state of Montana, commanding the person whose presence and testimony is desired to appear before the board at a certain time and place fixed by the board then and there to testify in the manner of such business or in such hearing. The subpoena shall be served in the same manner as a subpoena for a trial in the district court and shall be substantially in the same form. Fees or other charges demanded by a person commanded to appear and testify shall be only those which may be demanded by witnesses in causes in the district court and under the same circumstances.

Failure to appear or testify—penalty.

Section 38. **Failure to appear or testify—penalty.** Any person subpoenaed in the manner provided in section thirty-seven (37), who fails or refuses to appear and testify, shall be dealt with by the district court from which such subpoena was issued in the same manner and to the same effect as though the subpoena had commanded him to appear and testify in a cause on trial in said court.

Notice of change of address or name.

Section 39. **Notice of change of address or name.** Whenever any person shall apply for a license of any type to practice medicine in the state of Montana such person shall designate in his application his correct and official address to which the board shall send all communications, notices, orders, citations or other process, if any, affecting him and whenever any such person shall change his address or when the name of a licensee is changed by marriage or otherwise, such person shall within thirty (30) days notify the board in writing of his old and new address or of such former name and new name. This information shall be entered promptly by the executive secretary of the board in the official records of the board. It is hereby declared to be the duty of each person licensed to practice medicine in the state

of Montana to keep the board advised at all times of his correct mailing address and of his correct name.

Service of notice or process.

Section 40. **Service of notice or other process.** Whenever in this act service of any form of notice, order, citation or other process is authorized and directed to be made upon any licensee practicing medicine in the state of Montana such service may be made upon such licensee by mailing such notice, order, citation or other process to him, by registered mail, at his address as shown on the records of the board. Such service shall be deemed complete when such notice, order, citation or other process shall have been registered in the United States post office with sufficient postage affixed thereto and addressed to him at the address shown on the official records of the board.

In lieu of service by registered mail, actual personal service of such notice, order, citation or other process, either within or without the state of Montana, upon any licensee shall be sufficient to vest the board with jurisdiction of such licensee.

Saving clause.

Section 41. **Saving clause.** If any section, subsection, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Effective date.

Section 42. **Effective date of act.** This act shall become effective on passage and approval by the governor.

Repealing clause.

Section 43. Sections 66-1001, 66-1002, 66-1003, as amended by section 1, chapter 119 of the laws of 1957, sections 66-1004 through 66-1009, both inclusive of the Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 13, 1969.

CHAPTER NO. 339

An Act to Amend Section 31-149, R.C.M. 1947, Establishing the Revocation Period for Driving While Under the Influence of Any Drug as Sixty (60) Days for the First Offense and One (1) Year for Subsequent Offenses Within a Five (5) Year Period; Establishing the Duration Period of Other Revocations.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-149, R.C.M. 1947, is amended to read as follows:

Period of suspension or revocation.

"31-149. **Period of suspension or revocation.** (a) The board shall not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one (1) year, except as permitted under sections 31-148, 31-155, 53-424 and 53-430, *R.C.M. 1947.*

(b) Any person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the period of such revocation or suspension, such person may make application for a new license as provided by law, but the board shall not then issue a new license unless and until it is satisfied after investigation of character, habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. Provided, however, when any person is convicted or forfeits bail or collateral not vacated for the offense of operating or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or narcotic drug, *or knowingly or willingly under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle* or a combination thereof, the board shall, upon receiving a report of such conviction or forfeiture of bail or collateral not vacated, suspend or revoke the license or driving privilege of such person for a period of *sixty* (60) days. Upon receiving a report of a conviction or forfeiture of bail or collateral for a subsequent such offense, within five (5) years thereof, the board shall suspend or revoke the license or driving privilege of such person for a period of one (1) year.

(c) The revocation period for all revocations made mandatory by section 31-146, R.C.M. 1947, shall be one